

Claim Rejections: 35 U.S.C. § 112

Claims 11-30 stand rejected as failing to comply with Section 112. Specifically, the Examiner contends that there is no support for the limitation that the lancer is mounted "in" the housing in claim 1, and no support for the limitation that the second compartment is adapted to "receive and store" a lancer in claim 24.

The Examiner states that the "[l]ocking means (31) are taught in the specification but are never further described to include hooks or any other structure. The figures show element 31 as a quadrilateral shape, however one cannot tell if this structure extends from the lancer or is a recessed space (opening) that another member would [be] inserted into. Furthermore, the quadrilateral shape could depict a 'black box' element that depicts an entirely different intended structure." Office Action at 2-3.

As explained in detail in the Lav Declaration submitted with the last Response, a person skilled in the art would interpret the elements 31 as hooks. The Examiner found the Lav Declaration to be unpersuasive because "the specification is lacking any description of the locking means," and "the locking means could just as likely be a magnetic element . . ." Office Action at 3.

However, as discussed below the drawings show a structure with a deliberate shape, not a black box or a simple magnetic element. The relevant issue is what shape would a person skilled in the art conclude is shown?

If the drawings intended to depict element 31 as a black box or a magnet, element 31 would have been drawn as a simple geometric shape, e.g., a rectangle. But, element 31 is not drawn that way – it includes a rectangular portion, and a thin, pencil shaped portion extending from the bottom edge of the rectangular portion.

The pencil shaped portion of element 31 is either an outwardly protruding hook or a keyhole element, depending upon how the drawing is interpreted. Either way, clearly the fact that element 31 is drawn as a complex shape means that a person skilled in the art would not interpret it to depict a simple black box or magnet.

The principal argument presented by the Examiner in the last Office Action is that it was unclear whether a person skilled in the art, viewing the drawings, would conclude that the drawing of element 31 depicted an outwardly extending projection, i.e., a hook, as opposed to a recess in which a hook would be received. May 5, 2005 Office Action at 2-3. The Lav Declaration explains that, given those two choices, a person skilled in the art would clearly understand the drawing to depict a hook.

The Examiner does not dispute Mr. Lav's contention that, if element 31 would be understood to be either a hook or a recess, a person skilled in the art would interpret it to be a hook. Rather, the Examiner rejects the Lav Declaration by contending that the element 31 could merely be a black box or a magnet. Office Action at 3 and 5. However, as discussed above, clearly element 31 is not drawn as a black box or simple magnet.

The applicants concede that element 31 as drawn, taken in a vacuum, could be construed to be either a hook or a recess with a keyhole portion. However, for the reasons set forth in the Lav Declaration, in the context of the overall device, a persons skilled in the art would interpret the element as being a hook. For such reasons, the applicants respectfully request reconsideration and allowance of claims 1-30.

Rejection Of Claim 31

Claim 31 stands rejected under 35 U.S.C. § 103(a) as obvious over Castellano et al. U.S. patent No. 5,728,074. Although Castellano does not disclose a device in which the syringe is removable, the Examiner asserts that making the syringe removable would be obvious. The Examiner cites Application of Dulberg, 289 F.2d 522 (CCPA 1961) for the proposition that, because the Castellano syringe could be made detachable, it is obvious to do so.